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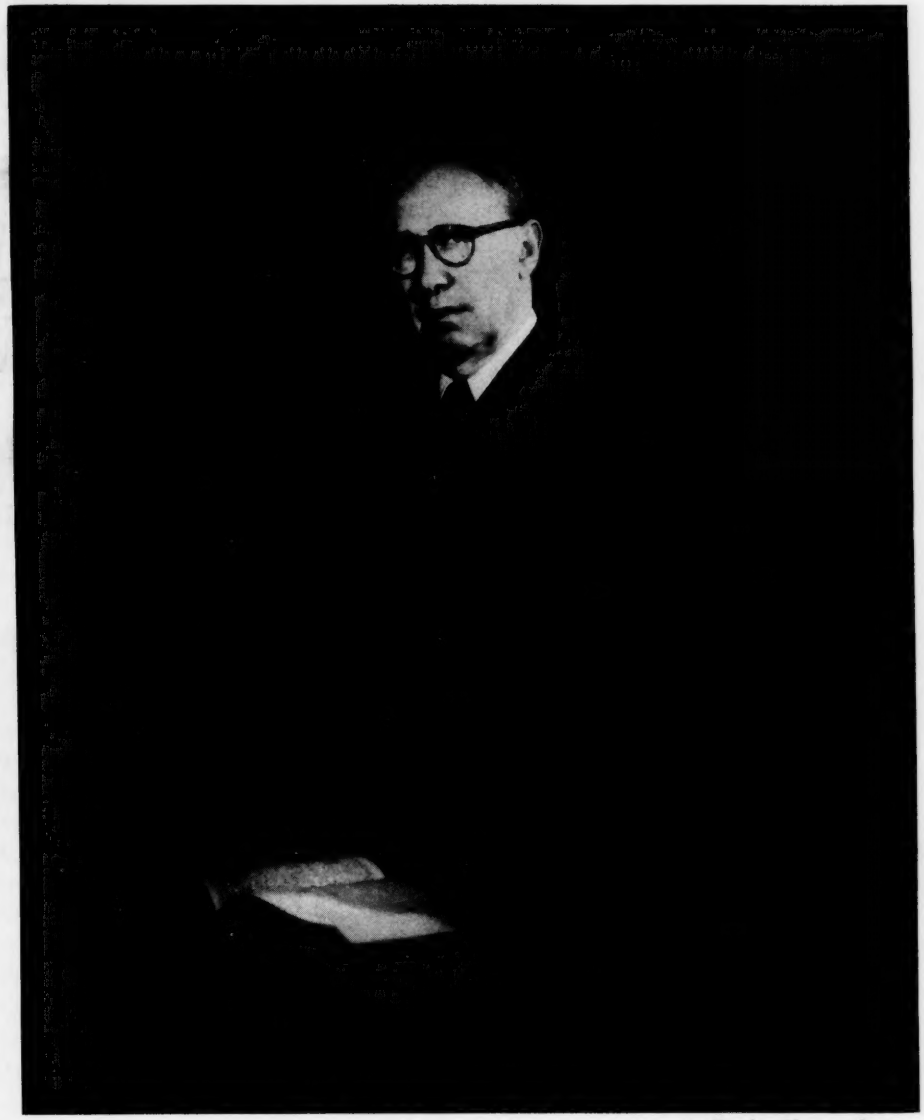

Esquire Photographers

JUDGE HARRY M. FISHER

Recipient of The Decalogue Award, 1951

THE DECALOGUE JOURNAL

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Decalogue Society Sponsors Israel Bond Campaign

"The United States government views with favor the campaign to float in this country the Five Hundred Million dollar Israel Bond issue. A friend of the new nation since its foundation, this government deems Israel a powerful bulwark for the preservation of the peace in the Middle East and a vital factor for the maintenance of principles of democracy in the midst of a tremendous territory ruled by totalitarian and feudal regimes."

This was, in substance, the message of James G. McDonald, first U. S. ambassador to the State of Israel at a dinner in the Covenant Club, Tuesday evening, December 12. The affair dedicated to the selling of Israel Bonds was sponsored by The Decalogue Society of Lawyers. Over two hundred members of our Society and guests attended the event.

Mr. McDonald stressed the importance of the drive to sell the bonds which, he stated, will help industrialize the country and make immeasurably for the development of the agriculture of the land. The Ambassador spoke in glowing terms of the determination of the Israeli citizenry to make the economy of the country self sustaining, and of the self-sacrifice of the Israeli people in opening its gates to the young and the old, the sick and the needy—and that regardless of the hardships upon the pioneers that such a policy implies. The Ambassador also pointed out that the interest of major financial institutions of this country in the five hundred million dollar bond campaign augurs well for the success of the drive.

More than one hundred and thirty thousand dollars worth of bonds were sold at the dinner. President Archie H. Cohen addressed the gathering, urging generous and immediate response to the appeal of the occasion. Nathan Schwartz, member of our Board of Managers, was chairman of the evening. Judge Harry M. Fisher the recipient of the Decalogue Award of Merit for 1951 made the Bond Drive purchase appeal.

Harry M. Fisher: Citizen, Lawyer, and Judge

If long and outstanding public service were the sole criterion for the honor, that alone would assure the distinguished recipient of The Decalogue Society's Award of Merit for 1951 a foremost place in our esteem. Beginning with his arrival in this country from Lithuania as an immigrant boy, to this day, Harry M. Fisher has been outstanding in his devotion to the ideals of his adopted land. In his early youth, as a capmaker and later as a lawyer, his talents were dedicated to the cause of the common man. From this he has never deviated—either as a lawyer, as a social worker, or as a Judge. Typical is his decision holding that during a depression courts of chancery may in effect declare a moratorium on foreclosures.

Judge Fisher was born in Lithuania January 1, 1882. His parents emigrated here in 1893. He was a newsboy after school hours. Later, while attending evening classes at the Kent College of Law, he worked in a capmaker's shop. He was graduated from Law School in 1904 and admitted to the Illinois Bar the same year. He was in private practice until elected a Judge of the Municipal Court in 1912 on the Democratic ticket. He was reelected in 1918. In 1921 his party selected him for a judgeship on the Circuit Court. He has been renominated and reelected for the same post, since.

Judge Fisher's contributions to judicial reforms are many and extraordinary. Years before he became a lawyer he was president of the Juvenile Protective League of his district. A keen interest in sociological problems remained with him throughout his forty years on the bench. He attacked the Juvenile Court as constituted more than fifty years ago on the ground that it was a Criminal Court in which the children were deprived of trial by jury. His position was sustained by the Supreme Court of our State. So cogent and learned were Fisher's arguments in behalf of Juvenile Court reforms, that years before Fisher ascended to the Bench the then Judge of the Juvenile Court, Julian W. Mack, prevailed upon him to write a new act which Fisher completed in 1906. This Act was adopted by the Illinois Legislature in 1907; throughout the country it is still a model for similar legislation. Shortly after, Fisher wrote a handbook on Juvenile Court Practice. At the request of Judge Lindsay of Colorado he rewrote the Juvenile Court Law of that state.

Judge Fisher's interest in the law both in its theory and in its practice, has been constant and deep. It stems from years in the "socialized" branches of the "Peoples Court"—The Boy's Court, The Court of Domestic Relations and the Women's Court, from years as a special lecturer in the Department of Sociology at the University of Chicago; and more than fifteen years experience as adviser to the Social Legislation Committee headed by the late Professor Tufts of the same university.

Indefatigable in his concern for judicial reform Judge Fisher's profound influence is found on the statute books of our State. Illinois is indebted to him for writing and seeing through the legislature the following acts: *Revision of the Juvenile Court Act; The Pandering Act; The Adoption of Children Act; The Act Relating to Treatment of Feeble-minded Persons; Act consolidating the State Penitentiaries and placing commitments in charge of the Department of Public Welfare; The Act creating Diagnostic Depots in the Penal Institutions.*

A completely revised Criminal Code, to the writing of which he has given painstaking effort, is now pending in the State Legislature. He is co-author of Uniform Judicial Review of Decisions of Administrative Agencies, Civil Practice Act, Rules for the Supreme Court, and of the Gateway Amendment. He is a member of the Joint Committee of The Illinois State and of the Chicago Bar Associations for the revision of the Judicial Article.

He fought valiantly attempts by the Illinois Legislature to do away with our parole system and led a civic crusade to help prevent its repeal. In the school room, on the public platform, through numerous articles in law journals and publications of general circulation, Judge Fisher has ever been the advocate of concepts of social justice, for the improvement

of the law and for the welfare of the citizen. Recognition of his exceptional abilities as Judge and lawyer is attested by his repeated selection by fellow judges as Motion and Extraordinary Remedy Judge. In this branch of the Court are settled most of the difficult legal problems before cases go to trial. His decisions while a Judge in the Criminal Court were revolutionary and contributed to the speedy administration of justice. It was Fisher who ruled that a defendant in a felony case may waive a trial by jury. This innovation helped greatly to clear the Criminal Court docket to a degree where, today, in some instances when the parties are ready a case may go to trial immediately after the return of indictment.

Judge Fisher is the Chairman of the Judicial Advisory Council of Cook County. Of him the Chicago Bar Association said: "He made notable contributions to the improvement of the civil and criminal laws of this State."

His grasp of duties was brilliantly demonstrated in the LaMode Garment Company case where he held that an employer seeking an injunction against his striking employees must come into court with clean hands and offer to do equity. Victor Olander, the late President of the Illinois Federation of Labor, said of Judge Fisher: "He is the only official in Illinois that not only speaks understandingly and sympathetically in respect to Labor's problems but acts in conformity with his philosophy." Consistent with his interest in the laboring man, it was Judge Fisher who organized civic groups to bring pressure on the employers and helped the Amalgamated Garment Workers when they struck under the leadership of the late Sidney Hillman. He manifested the same attitude toward the Ladies Garment Workers during their days of strife and for more than thirty years he has acted without compensation as their impartial arbitrator.

* * *

No annals of American Jewry may be written without recording the contributions to their welfare by Judge Harry M. Fisher. "Nothing Jewish is alien to me," is the refrain of the Judge's attitude toward his religious brethren. A Zionist while still a youth (he was president of the Chicago Zionist Organization in 1931) Fisher was an uncompromising believer in the creation of an independent Israel nation. His dream of a home for World Jewry dates from the time of the Balfour Declaration in 1917 and before. He was a friend and a collaborator of Louis Marshall, Justice Louis D. Brandeis, Rabbi Stephen Wise, Felix Warburg, Julius Rosenwald, Jacob Schiff, Henrietta Szold and others.

His affiliations are many and indicative of the scope of his interests. He is a member of the Board of Directors of the Jewish Welfare Fund, United Nations Association of Chicago, Israel Bond Drive, Combined Jewish Appeal. He was one of the founders and the President of the Maimonides Hospital, now known as Mount Sinai Hospital. He was a founder of the Jewish People's Institute of Chicago. He is a charter member of the Covenant Club.

He was selected by the American Jewish Joint Distribution Committee in 1920 as Chairman of a Commission sent to Russia, under the auspices of the United States Government, to negotiate an agreement for the establishment in the Soviet Union of Jewish Relief Agencies. This trip was a perilous one; two members of the commission lost their lives in the Ukraine. In 1926 the Chicago Jewish Community sent him for a first-hand report on conditions in Palestine. This visit resulted in a more intimate interest in the Palestinian Movement of such men as Julius Rosenwald, Louis Marshall and Felix Warburg.

In 1931 he went to Europe as consultant to an Illinois Legislative Commission to study the penal institutions in England and on the Continent. In 1939 he was an American delegate to the World Zionist Convention in Geneva.

The years after World War II brought in their wake the incredibly tragic plight of the remaining thousands of European Jewry and the need for their rescue. Few, if any men, can be found in the United States who compare with Fisher in the enormous amounts of money raised by him for the stricken and the homeless. He denied himself to no occasion which was to help the victims of Hitler. He has helped raise millions of dollars for Combined Jewish Appeals, Jewish National Fund Campaigns, and Israel Bond Drives.

In Chicago, his home city, he is the mainstay of our Board of Jewish Education and a

member of the Board of Directors of the Jewish Welfare Fund. Jews and Christians alike interested in communal endeavors regard him as their active friend and counsellor; and there are few civic and social agencies in this city which fail to ask for his guidance.

An impressive demonstration of Fisher's popularity occurred in 1943. American Jewry, aroused by the grim reports of the agonies and the martyrdom of the Jews in Europe, determined upon united action by a democratically elected body, The American Jewish Conference. The vote in Chicago for Judge Fisher was by far the highest cast for any delegate.

Judge Fisher married Esther R. Soboroff in 1905. The Fishers are the parents of Beatrice White, David, and Deverra Roberts.

Happily, at seventy, Judge Fisher, recently reelected for another six year term on the Circuit Court Bench, is as vigorous and as vital as ever in the discharge of his judicial duties and in his sustained interest in the problems of humanity. As a citizen he has fostered respect for and solidarity with American institutions. As a lawyer, he has endeared himself to the profession by his stalwart espousal of the cherished traditions of the Bar. As a Judge, his learning and his humanity are an harmonious entity. As a Jew, he is intensely the responsible son of a people whose claims upon him he has discharged with ardor, sagacity, and prophetic vision. Above all he has been uncompromisingly steadfast in his loyalties to the common man. —*Editor.*

THE JUDICIARY RESPONDS

Archie H. Cohen, President of our society, is particularly gratified with the response of the Judiciary of this County and State to the selection of Judge Harry M. Fisher as the recipient of the Decalogue's Award for 1951. He states: "I am in receipt of a large number of communications from fellow judges of our selectee of honor, many of whom will be present at the affair, commenting upon the fitness and wisdom of our choice. As a practicing lawyer and an officer of the court of this State for more than 37 years, I have never met so enthusiastic and so uniform an expression of praise of a member of the Bench. Each communication to me is a eulogy of approval. Many recite Fisher's singular achievements on the Bench. All testify to his extraordinary abilities as a lawyer."

APPLICATIONS FOR MEMBERSHIP

BERNARD EPTON, JOSEPH SOLON, SEYMOUR VELK, *Co-Chairmen*

APPLICANTS	*SPONSORS*
Harry M. Beegun	Louis J. Nurenberg & Max Beegun
Louis H. Bluestein	Reginald J. Holzer & H. Burton Schatz
Alfred S. Druth	Benjamin E. Epton & Saul A. Epton
Bertram Ronald Eisner	H. Burton Schatz
Paul Freeman	Harry D. Cohen
Bernard L. Goldstein	Harry Marcus & Benjamin Weintroub
Sidney Goldstein	A. M. Horwitz
Jacob Kaplan	Nathan D. Kaplan & Oscar Nudelman
Alan David Katz	M. N. Andalman & Samuel S. Siegel
Fred Lane	Samuel S. Cohon & Irving Goldstein
Ned Langer	Milton M. Ruben & Hyman Schechet
Seymour J. Layfer	Jack E. Dwork and Samuel Cohen
Philip Z. Levinson	H. Burton Schatz
Harry G. Marks	Harry D. Cohen
Joseph Marshall	Archie H. Cohen & Michael Gerrard
Jacob A. Mogill	A. M. Horwitz
A. N. Pritzker	Benjamin Weintroub & Paul G. Annes
Benjamin Rosengard	Lester Koenigsberg
Morton J. Rubin	J. M. Sax & Benjamin Weintroub
Albert M. Schaeffer	Jos. Mendelsohn & H. Burton Schatz
Leo D. Schein	Benjamin R. Paul & Archie H. Cohen
Bennet H. Shulman	Harold M. Nudelman & Bernard Shulman
Martin L. Silverman	Harry S. Greenstein & Samuel T. Klaskin
I. R. Sondler	Lester Koenigsberg
Blanche Stein	Richar Fischer
Daniel P. Tunick	Herman S. Landfield

ON SLANDER

Rabban Gamaliel commanded his slave, Tobi, to buy the best edible in the market. The slave brought home a tongue. The next day Rabban Gamaliel commanded him to buy the worst thing in the market, and again Tobi brought home a tongue. When asked for an explanation, the wise slave replied: "There is nothing better than a good tongue, and nothing worse than an evil tongue." WISDOM FROM THE MIDRASH

The U. S. Supreme Court and Civil Rights in 1951

By LEON M. DESPRES

From a lecture before our Society, delivered under the auspices of the Professional Education Committee, November 16, 1951.

In the field of civil rights, the U. S. Supreme Court in the past year has given little cause for rejoicing among the upholders of civil rights. It has enlarged the power of policemen to stop unpopular public speeches, diminished the protection of the Civil Rights Act of 1870, allowed local governments to stop door-to-door sales of magazines and newspapers, upheld loyalty oaths for public employees, and laid a firm foundation for punishing the expression of unpopular political ideas. The court's work would justify a modern Zephaniah in warning us as the old Zephaniah once said:

> The great day of the Lord's anger is near
> It is near and hasteth greatly!...
> A day of darkness and gloominess,
> A day of clouds and thick darkness,
> A day of the trumpet and alarm.

In *Dennis* v. *U. S.*, 341 U. S. 494, the court sentenced the executive committee of the Communist Party to jail, not for espionage nor for conspiring to overthrow the government, but for conspiring to advocate its overthrow vi et armis. I can remember no American case which so clearly punished men for their ideas. Naturally, if the government could prove that Dennis was an agent of Moscow, he might have been convicted of espionage; but his "paraphernalia of crime" were copies of the Communist Manifesto of 1848, a document studied in every college political science department. Of the majority opinion, Justice Douglas said the following words, which will be quoted long after the fame of the majority judges will be confined to the Dictionary of American Biography:

> The opinion of the Court does not outlaw these texts nor condemn them to the fire, as the Communists do literature offensive to their creed. But if the books themselves are not outlawed, if they can lawfully remain on library shelves, by what reasoning does their use in a classroom become a crime? It would not be a crime under the Act to introduce these books to a class, though that would be teaching what the creed of violent overthrow of the government is. The Act, as construed, requires the element of intent—that those who teach the creed believe in it. The crime then depends not on what is taught but on who the teacher is. That is to make freedom of speech turn not on *what is said*, but on the *intent* with which it is said. Once we start down that road we enter territory dangerous to the liberties of every citizen.

Despite a militant minority, the court allowed New York police to imprison a Progressive Party speaker for disturbing peace by unpopular political street comments, *Feiner* v. *New York*, 340 U. S. 315, but freed two preachers in *Kunz* v. *N. Y.*, 340 U. S. 290, and *Niemotko* v. *Maryland*, 340 U. S. 268. Both the preachers were arrested under ordinances which allowed a city official uncontrolled discretion to decide whether to grant or withhold the permit to speak. The law seems to be that an ordinance can not give such power to a city officer, but it can in effect give such power to a police officer unless a court or jury later says the police officer was wrong.

In *Garner* v. *Board of Public Works*, 341 U. S. 716, the court upheld a "loyalty" oath requirement for Los Angeles employees and Douglas and Black again starred in dissent. In *Breard* v. *Alexandria*, 341 U. S. 622, Justice Black said he thought the free expression of opinion suffered from an ordinance restricting door to door solicitation of magazine and newspaper subscriptions, but the majority thought the ordinance legitimately protected the American home.

A series of cases arose under the Civil Rights Act of 1870. After the decisions are cleared away, the reader concludes that federal prosecution and civil suit lie when people deprive others of federal civil rights under "color of law," but not if they do the depriving without "color of law." If a band of policemen in uniform deprive us of such rights, there is a federal remedy; but if a band of gangsters do so, there is no federal remedy. *U. S.* v. *Williams*, 341 U. S. 58 and *Williams* v. *U. S.*, 341 U. S. 70, 341 U. S. 97.

On the plus side, the court has hewn to the line of preventing anti-Negro discrimination in public education or in jury selection, and found merit in the Joint Anti-Fascist Committee's claim for relief against being listed without

(Continued on page 22)

WHAT THEY SAY:

Excerpts published below are from letters that have reached the President of our Society at the time this issue went to press. The Decalogue Journal, for the Months of April-May will contain, it is expected, more comments.

. . ."Judge Fisher has long been considered to possess one of the most able and profound legal minds in American jurisprudence. His impact upon the development of the law and its adaptation to the necessities of modern society, is immeasurable, not only as a necessary result of the magnitude and complexity of his contribution, but also because of the adoption of so many of his ideas by others and their incorporation in written opinions and texts."

JUDGE ALAN E. ASHCRAFT, JR.,
Superior Court of Cook County

* * *

. . ."I regret exceedingly that absence from the city at that time will prevent my attendance. I should like to be present and to help do honor to Judge Fisher, for whose talents and accomplishments I have very great admiration. If you will present to Judge Fisher my compliments, congratulations and good wishes, I shall be appreciative."

JUDGE JOHN P. BARNES,
United States District Court

* * *

. . ."He is a very wise, patient and conscientious Judge, capable of the clearest kind of analysis and language."

JUDGE JOHN F. BOLTON,
Superior Court of Cook County

* * *

. . ."Judge Fisher has justly earned this honor of his having given so selflessly and unselfishly of himself to all worth-while causes as far back as the memory of man runs. Congratulations to the Society! ! !"

JUDGE JACOB M. BRAUDE,
The Municipal Court of Chicago

* * *

. . ."For his distinguished service as a public servant for the past forty years and his conscientious and brilliant devotion to his duty as a lawyer and judge it is fitting indeed that Judge Harry M. Fisher be thus appropriately recognized by your outstanding organization."

JUDGE WILLIAM V. BROTHERS,
Circuit Court of Illinois

* * *

. . ."Dedicated to the highest ideals of public-service, Judge Fisher has by reason of his long experience, scholarship and unremitting labors reflected honor on his family, his friends and his country."

JUDGE CHARLES E. BYRNE,
Superior Court of Cook County

. . ."He has been an outstanding leader in many movements for the public good and deserves this signal honor. His meritorious conduct has redounded to the benefit of the people of our State. May Judge and Mrs. Fisher continue to enjoy plenteous years of good health, success and happiness."

JUSTICE JOSEPH BURKE,
Illinois Appellate Court

* * *

. . ."My congratulations to Judge Fisher!"

JUSTICE TOM C. CLARK,
Supreme Court of the United States

* * *

. . ."The Society's action in this regard is a splendid and well deserved tribute to services and efforts graciously, intelligently and efficiently rendered."

JUDGE THOMAS J. COURTNEY,
Circuit Court of Cook County

* * *

. . ."No one in our law and judicial work in Illinois is more deserving of this honor you are conferring on Judge Fisher than is he. He is a thorough student of the law, one who gives much of his time to the reading and analyzing of what has been said by others on any given problem before him and then follows by applying his conclusions drawn therefrom to the questions involved. In my service in the Cook County Circuit Court we grew to depend upon Judge Fisher to assist us in the questions presented to us up there."

JOSEPH E. DAILY,
Chief Justice Supreme Court,
State of Illinois

* * *

. . ."The selection of Judge Harry M. Fisher as the recipient of the Decalogue Award of Merit in recognition of his valuable contributions in the field of law and in civic affairs, is a well-deserved tribute to an exceptional jurist who has zealously and ardently fought for human rights everywhere."

JUDGE JOSEPH J. DRUCKER,
Municipal Court of Chicago

* * *

. . ."Judge Fisher is recognized by the Bench and Bar alike as being an excellent lawyer and a leader of the Bench."

JUDGE ROBERT JEROME DUNNE,
Juvenile Court of Cook County

. . ."As Attorney General of the State of Illinois, I entertain only the highest regard and respect for Judge Fisher. His opinions and demeanor have been always scholarly, outstanding and sincere. His very conscientious attitude has been an asset to the Court which he represents. In my opinion, Judge Fisher is one of the great scholars of legal jurisprudence, and certainly deserving of the high honor to be bestowed upon him on this occasion."

IVAN A. ELLIOTT,
Attorney General of Illinois

* * *

. . ."Judge Fisher has maintained, for over thirty-five years, a preeminent position as a Judge and legal scholar, and at the same time has rendered to the Jewish community outstanding leadership in communal affairs. Lawyers, and Judges as well, often seek the advice and wisdom of this veteran Judge of the Circuit Court."

JUDGE SAMUEL B. EPSTEIN,
Superior Court of Cook County

* * *

. . ."The selection of Judge Fisher by the Society for an award of merit is an excellent one and an award he has well merited. . ."

JUDGE MICHAEL FEINBERG,
Illinois Appellate Court

* * *

. . ."He has abundantly merited this Award. Judge Fisher is one of the few really great jurists of this country."

JUDGE GEORGE M. FISHER,
Superior Court of Cook County

* * *

. . ."Judge Fisher richly deserves your high honor. You have honored the Society as well as the Judge by such a wise determination."

BARNET HODES

* * *

. . ."A brilliant interpreter of the changing scene, especially in the courts.

JUDGE JULIUS J. HOFFMAN,
Superior Court of Cook County

* * *

. . ."Judge Fisher without question is one of the outstanding jurists in Illinois and he has contributed greatly to the administration of law during his entire career."

JUDGE EDMUND K. JARECKI,
County Court of Cook County

* * *

. . ."Judge Harry M. Fisher is a gentleman of outstanding ability. I have always admired his understanding, legal ability, and unselfish civic endeavor."

OTTO KERNER, JR.,
United States Attorney

. . ."His service in the Circuit Court has enriched the administration of justice. His constant attention to, and labor for, the improvement of the judicial function and process is alone ample justification for this splendid distinction."

JUDGE ROGER J. KILEY,
Appellate Court of Illinois

* * *

. . ."I have had many opportunities of personal contact with my colleague and I consider him one of the outstanding jurists of our time and exceptionally well read in legal procedure and practice. He has done and is doing an outstanding job yet still finds time to give his attention to legislative problems and questions in connection with the judiciary. He is a man who will fight for his principles and what he considers is right and I have had that opportunity of having him fight in my behalf."

JUDGE THOMAS E. KLUCYNSKI,
Criminal Court of Cook County

* * *

. . ."Judge Fisher is a courageous judge, a clear thinker and a profound student of the law. He is recognized by the Bench and Bar for his devotion to duty and his many contributions toward the betterment of the administration of the law. . . . I feel this Award is justly due him and is a fine token and recognition of the high standards he has attained as an outstanding jurist and as a patriotic citizen of this community."

JUDGE JOHN J. LUPE,
Superior Court of Cook County

* * *

. . ."He has made significant contributions which have enriched jurisprudence and the practice of law. His untiring zeal and sage counsel have for more than forty years advanced philanthropy, education, and civic and communal consciousness. He has been in the front ranks of the fighters for justice for minorities."

JUDGE ABRAHAM L. MAROVITZ,
Criminal Court of Cook County

* * *

. . ."The selection of Judge Harry M. Fisher to receive the Decalogue Award of Merit is a happy one. Judge Fisher has been for a generation one of our most useful and scholarly jurists. His contributions to jurisprudence in Illinois will not be fully appreciated until history evaluates them."

JUDGE FRANK M. PADDEN,
Superior Court of Illinois

* * *

. . ."It is now a pleasure and a privilege to be associated with him in the work of the Circuit Court. I know him to be a man of unimpeachable character, sound judgment and an industrious and painstaking Judge. He is a credit to the Bench and Bar of this great State of Illinois."

JUDGE LEONARD C. REID,
Circuit Court of Illinois

. . ."His contributions made in the criminal practice, during the short time devoted to that class of judicial work, has been monumental and as we look back over the years, has saved the taxpayers of Cook County untold thousands of dollars without in the slightest degree affecting the rights of the defendants before the bar of justice. His unceasing labors in the field of procedural law alone merit the granting to him of the highest recognition that can be bestowed by lawyers or law societies."

JUDGE DANIEL A. ROBERTS,
Circuit Court of Cook County

* * *

. . ."He is a man of all-compelling force, great might of temperament, and a keenness of intellect that is to be found in few . . . As a proponent for the advancement and liberalization of jurisprudence, he has been one of the leaders."

JUDGE EDWIN A. ROBSON,
Illinois Appellate Court

* * *

. . ."He has a brilliant mind, is extremely well versed in the law, and makes an intelligent and fair presentation of his point of view on any legal subject submitted to him for consideration."

JUDGE PETER S. SCHWABA,
Superior Court of Cook County

. . ."I have known Judge Harry M. Fisher for almost forty years, and I know of no member of the judiciary who has reflected a greater contribution to the administration of law. His record at the bar speaks for itself. His integrity and ability have been reflected in all of his rulings. I only regret that he cannot be a member of the Superior Court as well as the Circuit Court."

JUDGE JOHN A. SBARBARO,
Superior Court of Cook County

* * *

. . ."He has made outstanding contributions to the reform of civil and criminal practice. He has eliminated many useless and outmoded forms of procedure. He has made constructive advances in the administrative organization of the courts."

JUDGE ULYSSES S. SCHWARTZ,
Illinois Appellate Court

* * *

. . ."Judge Fisher's selection is eloquent testimony of the discernment of the officers of your Society. I think this award to Judge Fisher serves also the larger purpose of reminding our citizenry that only through the integrity and wisdom of an alert and intelligent judiciary will be secured to mankind its natural rights, the protection of which our treasured United States of America was founded to secure."

JUDGE WILLIAM J. TUOHY,
Circuit Court of Illinois

ACCLAIM DECALOGUE CHOICE

. . ."It would be endless and repetitious for me to recite the list of services Judge Harry M. Fisher has performed for the cause of humanity and for distinguished service to American Democracy. As a former practicing trial lawyer, and from my own personal experience, I would insist that equal justice to all persons appearing before a trial judge is a high mark of American Democracy. In his capacity as jurist, Harry Fisher has maintained this high mark. Our law students think of him as an outstanding alumnus."

DONALD CAMPBELL, *Dean*
Chicago-Kent College of Law

* * *

. . ."He is one of the finest living Americans . . . Since Judge Fisher was one of those most responsible for my initial appointment by President Truman to the Anglo-American Committee, (which caused me to have a continuing and abiding interest in Israel) he will know that if I am not present, his is the responsibility on the doctrine of proximate causation."

BARTLEY C. CRUM,
Recipient of The Decalogue Award, 1946

FROM THE GOVERNOR

. . ."I share with Judge Harry M. Fisher's many friends and admirers the delight with this most recent recognition of his services. I know that this old dear friend of mine will accept this recognition like all of his other honors, with the same honesty, humility and devotion to his work."

ADLAI E. STEVENSON,
Governor, State of Illinois

. . ."I am glad to add my voice to the many others who will wish to pay tribute to this distinguished jurist, outstanding citizen and loyal and devoted Jew. I have known Judge Fisher for nearly thirty years and to list his achievements would be to call the roll for everything that is worthwhile in American-Jewish life."

A. L. SACHAR,
President, Brandeis University

* * *

. . ."I should like to express my pleasure and gratification at the recognition which The Decalogue Society is giving to the splendid communal contributions of Judge Fisher. I join with his many friends in this expression of the high esteem in which he is held."

EDWARD M. M. WARBURG,
General Chairman, United Jewish Appeal

Recommend Society Group Hospitalization Service

By L. LOUIS KARTON

Chairman Decalogue Insurance Committee

After months of intensive study of various group hospitalization plans that give the maximum in coverage to members under most advantageous terms, the Decalogue Insurance Committee chose the Reserve Insurance Company plan. The findings and the recommendations of the committee were approved by our Board of Managers and, to date, a considerable number of our members have already enrolled.

Some of the striking features of The Reserve Insurance Company Hospitalization Plan are as follows: under the terms of the Reserve Policy an enrollee confined to a hospital for any reason, even for a diagnosis, receives $25.00 (twenty five dollars) per day. A member need not be treated at specific hospitals, in certain areas, but may go to any hospital in the United States and Canada; he may occupy any room and not be limited to a ward or two bed hospital room. Under the Reserve plan policy he may enter for a medical examination and the policy provides no limit to the number of times, in one year, a member may be confined to a hospital.

Another favorable feature of the Reserve plan is that a member may carry other hospital coverage while carrying The Decalogue Group Reserve Hospitalization Policy.

The cost to a member of our Society is $1.50 per month or $4.40 each three months. The cost to a member and one dependent is $4.00 per month or $11.80 each three months. For a member with two or more dependents it is $5.50 per month or $16.25 each quarter. The insurance company advises us that no money need be sent with the application.

Because under the terms of The Decalogue Society of Lawyers arrangements with the Reserve Insurance Company that a specific number of our members must join this Hospitalization Service, our committee urges each member to take immediate advantage of this liberal hospitalization policy now offered. For further information please write or phone Mr. William Henderson, Reserve Insurance Co., 180 W. Adams St., ANdover 3-7410.

Reservations Available

Requests for reservations for the forthcoming Seventeenth Annual AWARD Dinner at the Palmer House, Saturday Evening, March 1st continue at an unprecedented rate. Chairman of the Arrangements Committee Harry A. Iseberg and, Jack E. Dwork in charge of the ticket sales, announce that the selection of Judge Harry M. Fisher for the AWARD OF MERIT for 1951 has met with the hearty approval of the legal profession and the entire community. Seats are alloted in order of receipt of requests for reservations. The price is seven dollars and fifty cents per person.

For reservations please write or telephone the offices of the Society, 180 W. Washington Street, Telephone ANdover 3-6493.

THE GRAND JURY

Frederick Fritzie, Jr., assistant operating director of the Chicago Crime Commission for the past thirty years was the principal speaker before The Decalogue Society Civic Affairs Committee, Thursday noon, January 17, at the Society's Headquarters, 180 W. Washington Street. Mr. Fritzie spoke on "The Grand Jury and its Operation." Miss Matilda Fenberg, member of the Board of Managers presided. The author of a book *Jury Service in Illinois* she was instrumental in helping pass The Woman Jury Laws in 1939.

Mr. Fritzie and later Miss Fenberg discussed at length the system by which Grand Juries are selected. Both deplored the indifference of average citizens to calls for Jury Service. Mr. Fritzie urged a determined effort on the part of members of the legal profession to advocate more efficient methods of selecting juries.

Because of the circumstances surrounding the Moretti and several other cases, the Civic Affairs Committee has decided to make a thorough study of the operations of the Grand Jury in this State for the purpose of recommending techniques for the education of prospective grand jurors, and to help pass laws which will protect the rights of citizens brought before the Grand Jury.

Other speakers, it is planned, will be invited by the Civic Affairs Committee to help with its program of improving the operation of our Grand Jury.

Powers of Appointment and Estate Planning

By PAUL G. ANNES

After more than eight years of uncertainty, discussion and bargaining, we now have (as of June 28, 1951) the "Powers of Appointment Act of 1951." It very substantially mitigates the rigors of the 1942 Act and will be of considerable value to many clients. Practically every general practitioner has need to become acquainted at least with its general provisions and its possibilities in estate planning.

It is the writer's belief that in the past lawyers have steered away from "powers of appointment," at least consciously, because they associated them with the technical problems of *rights* in *future interests* in *property* which they studied in law school and never found of much use since then—but having nothing to do with taxation—. Actually, in estate planning there is little except verbal similarity in the use of the phrase; the law, as it now stands, requires just about no knowledge of the common law complexities in this field. What is needed is a clear understanding of the meaning of a few terms; the rest should follow fairly easily with a little study and some practice.

A power of appointment exists when one person (called the *holder* or *donee* of the power) receives from another person, usually the former or continuing owner of the property in question (called the *donor* of the power), the *power* to transfer an interest in property either to himself, to others or to both. Accordingly, if an *owner* of property himself transfers some interest in property but retains such powers which if received by him from another would be powers of appointment, these are known as "reserved powers"; they are not "powers of appointment," and are not covered by the Act under consideration. This discussion has no necessary application to the problems connected with reserve powers.

A brief review of the history of powers of appointment should be helpful. Up to the Revenue Act of 1918 all powers were free from federal estate and gift taxes. That Act included in the value of an estate, for estate taxes, property passing under the exercise of a *general* * power of appointment. The non-exercise of a general power and the exercise or non-exercise of *special* * powers did not subject the property to this tax. The Revenue Act of 1932 similarly imposed a gift tax only on the exercise of a general power during the lifetime of the donee of the power. That remained the law until October 21, 1942. Thus, from 1918 to 1942, if an owner or the holder of a power of appointment gave to another the power to appoint property in a third person, no estate or gift tax consequences resulted from either the exercise or non-exercise of such a power by the donee, effective either during his lifetime or at his death. Furthermore, even if the power was general, giving its holder the right to appoint the property to himself but if the power went unexercised and the property passed on in accordance with the applicable provisions or law in case of such non-exercise, again there were no tax consequences. Only where the transfer of the property resulted from the actual exercise of a general power did the gift or estate tax come into play, depending whether the transfer was inter vivos or testamentary in character—and it was usually both.

The Revenue Act of 1942 made a radical change in the Federal tax structure and nowhere more so than in its provisions governing powers of appointment. It represented a much greater recognition that the power to put property in another is in an economic sense the practical equivalent of ownership and should be taxed as such. Accordingly, this Act in substance provided that the mere possession, whether exercised or not, of any power, except certain specially limited powers, should be subject to gift and estate taxation, on the happening of the appropriate taxable event, applicable alike to powers created before as after October 21, 1942. One concession was made in favor of holders of powers created prior to that date: if such a power was released before July 1, 1943, or its holder died before that date, the impact of the new law did not strike. For various reasons this breathing period was successively extended from year to year, the last such extension to have expired on July 1, 1951. But before that date, on June 28, 1951, there came into effect the "Power of Appointment Act of 1951."

The new Act greatly softened the toughness of its predecessor. First of all, it differentiated between powers created prior and subsequent to October 2, 1942. As to the former, it practically restored the law as it was before the 1942 Revenue Act. From here on we will discuss the changes with respect to "post-1942" powers of appointment.

Perhaps the first thing to be mentioned is the new and most significant statutory definition of a general power of appointment as one "exercisable in favor of the decedent, his creditors, his estate, or the creditors of his estate." All other powers are special powers, with the exception that certain types of general powers yet to be discussed are excepted from the above definition of a general power. All powers not general, as above defined and excepted, are special powers and non-taxable.

As for general powers, the mere possession of such a power, whether exercised or not, subjects it to the estate or gift tax, as the case may be. Suppose a husband wills the property to his wife for life, with the power to appoint the remainder by deed or will to herself or their children. This remainder interest covered by the power will be includable in the wife's estate on her death even though she does not exercise the power. Obviously if during her lifetime she should transfer the property to the children, the exercise of

* The meaning of general and special powers has now been changed by the Powers of Appointment Act and will be considered later in this article.

the power would subject the transfer to the provisions of the gift tax, and on her death probably also to the estate tax.

What needs to be noticed is that by Treasury Regulations and under the present statutory definition many arrangements which prior to 1942 were not regarded as powers of appointment are now so treated. Since frequently they are general powers and therefore taxable even if not exercised, one must be on guard. For example, if the proceeds of a life insurance policy are left with an insurance company or a trustee, with certain periodic payments to the wife, and the balance on her death among their children, but the wife is given the power to withdraw at her discretion certain annual amounts in excess of the above periodic payments, this provision with respect to such excess amounts constitutes a general power and is taxable as such whether exercised or not—in the latter case called a lapsed power. The present Act provides, however, in the case of lapsed powers, that during any calendar year the sum of Five Thousand Dollars ($5,000.00) or five percent (5%) of the then calendar-year-end value of the assets out of which the lapsed power could have been satisfied, whichever is greater, shall not be so treated. Thus, if the remaining proceeds of the policy should in the particular year amount to Two Hundred Thousand Dollars ($200,000.00) the wife could take out Ten Thousand Dollars ($10,000.00) without subjecting it to inclusion in her estate. (There is no occasion for a gift tax, since she gives it to herself). But suppose she has a right under the policy to withdraw up to ten percent (10%) of the remaining amount in any one year. The excess above the amount permitted by the statute, cumulated over each year of her life, and computed as provided by the statute, would thus be subject to tax in her estate, even though in fact never withdrawn by the wife.

General reference has already been made to provisions which except from the definition of a general power and the consequences thereof certain kinds of general powers. One of them is in favor of

> "a power to consume, invade, or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent."

Thus the wife in the same hypothetical case may be a trustee or a limited beneficiary under a testamentary (or an inter-vivos) trust for the immediate or ultimate benefit of their children or others, but with a power to withdraw unlimited amounts as she may need for her reasonable needs of health and maintenance. Under the 1942 Act this would have been a general power, taxable as such even though unexercised. Therefore, it would have been more likely lodged in a third party trustee to make the power special. Under the present Act, since the power to consume by the wife—the ultimate decedent whose estate is being here considered—for her own benefit is in the supposed case limited by an ascertainable standard of reasonableness relating to her health and support and therefore within the statutory exception, it makes no difference that there is no limit to the amount involved. The statute having made it a special power it is not taxable. Suppose the same power to withdraw for her benefit would have been available to the decedent for any purpose or related to an indefinite standard. It would then be a general power; and taxable as such.

But even though the above power to consume for her own benefit had been given to the decedent without reference to any of the above standards, it is by another provision of the law still treated as a special power, if the decedent, the widow, could exercise the power only

> (a) "in conjunction with the **creator** of the power" or
> (b) "in conjunction with a person having a substantial interest in the property . . . which is **adverse** to exercise of the power in favor of the decedent"

The first case necessarily can arise only out of an inter vivos arrangement and only during the creator's life. (His death in turn creates interesting tax problems to be considered and anticipated by the original drafter of the document in question. These are beyond the scope of this article). In connection with the second case it is to be remembered that a trustee as such does not have an "adverse" interest within the meaning of the above provision. It is usually fairly clear whether the interest of one person is adverse to that of another. Sometime it isn't quite so; and there is a considerable body of case law already developed in connection with that same problem in the past. The Act itself contains a valuable provision that

> "a person who, after the death of the decedent, may be possessed of a power of appointment . . . . which he may exercise in his own favor shall be deemed as having an interest in the property and such an interest shall be deemed adverse to such exercise of the decedent's power."

The effect of this last provision will be indicated in the following paragraph.

Supposing a parent gives to his three sons or the survivors among them a joint power to appoint to themselves and others (and in default of appointment as provided in the instrument creating the power). Without the statutory provision last quoted it might be argued that the interests of the sons were not adverse to each other. In that event they would be holding general powers, taxable as such, so that the entire property subject to the power would be includable in the estate of the first to die, with similar consequences upon the deaths of the others. The statute however provides: first, that in any event, even if the two exceptions discussed in the preceding paragraph do not apply to make the power taxwise special,

> "such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such persons (including the decedent) in favor of whom such power is exercisable"

That would reduce the includable property in the estate of the first to die to one-third, there having been three holders of the power. In the assumed case, however, there would be nothing taxed since the survivors still have a general power with interests which are under the expressed terms of the law *adverse* to the other holders, thus making it a *special,*

hence non-taxable power. The same result would obtain in the case of the next to die, but not the last one, since in that case there is no joint holder of the power left and accordingly the power would be taxable in full.

It should be noted that a fiduciary having a general power subjects himself to the same tax consequences as any other holder of a similar power. One should therefore avoid putting such a power in a beneficiary.

If one finds himself with a general power and does not wish to accept its tax burden one must promptly disclaim or renounce, presumably within a reasonable time after learning of the existence of the power. A release of a general power afterward would involve a gift tax and upon the death of the person renouncing possibly also an estate tax.

Turning our attention away from general to special powers, it will be recalled that the latter is a power to appoint among any persons other than the holder of the power, his creditors, his estate, and the creditors of his estate; and if it is a special power it is non-taxable. It can be readily seen how varied may be the uses of such powers in estate planning. A common illustration is of a husband leaving part of his estate to his wife, either outright or in trust, the balance similarly to his children. But the testator may feel that he would rather that his wife should apportion the children's inheritance in the light of the needs and circumstances of the children at a later date. Various arrangements can be worked out, but the gist of all of them is that as to the portion intended for the children, it be placed in trust, the wife given the power to appoint, either by deed or will, among the children (and perhaps their spouses and descendants) in accordance with her discretion, with a provision for distribution in default of such appointment. Should the wife survive the husband and wish to make her own will before the children had grown up so that she does not at the time feel ready as yet to decide on the distribution of the property involved in her power, she can in turn by her will give a similar special power to another disinterested person. The setting up of a power on a power is permissible; the special language in the statute to the contrary applies only to Delaware and perhaps to Wisconsin because of special considerations in those states having to do with the Rule against Perpetuities.

Many other illustrations might be given to indicate how very practical can be the use of powers of appointment in working out family and other estate plans, even apart from the factor of tax saving. Granted that the primary objective of estate planning is not to exercise the talents of tax specialists, it remains true nevertheless that tax considerations are necessarily important. Powers of appointment are not to be used in every estate plan; perhaps not even in most. But each case remains unique; and where it is suited to the situation it may be very effective. One such general category is the combination of general and special powers of appointment where the former is used to obtain a marital deduction. To illustrate one among many possibilities:

H. has a net estate ("an adjusted gross estate" in the language of the Code) of $250,000. He would like to leave outright, or at least make available, up to one-half of the estate to his wife, so that she should be in a position to take care of any special needs of her own or of the children. The balance he would like to keep intact to insure that much going to the children in accordance with their needs, upon the wife's death, the latter in the meantime to have the income from the entire estate. He estimates that under existing conditions this income will be sufficient to maintain her in the style she has been accustomed to. If the husband's will had left the entire estate to his wife outright, his estate tax would be computed on the following basis:

Adjusted gross estate	less the sum of marital deduction	and specific exemption	Balance
$250,000	— ($125,000	+ $60,000)	= $65,000

and the tax would amount to ..... $10,700.

Assuming that the wife has no other property, that her estate will remain intact and disregarding the tax paid in the husband's estate, on her death her estate tax will be computed on the following basis:

$250,000 — $60,000 = $190,000

and the tax would amount to $45,300

The combined tax in both estates would be $56,000

Instead of the above, the husband's desires will be much better realized if:

The will leaves half of the estate ($125,000) in one trust qualifying for the marital deduction, giving the wife the income therefrom for life, with a power to appoint the corpus to herself and to others (limiting this class as he may wish), either by deed or will, and in default of appointment same to go to their children, etc.

The other half ($125,000) is left in another trust, the income similarly to the wife for life, who in this trust is given a *special* power to appoint the trust corpus by will among their children and grandchildren, and their spouses, and in default of appointment same to go to their children, etc.

The tax in the husband's estate remains the same $10,700

But the tax in the wife's estate will now be computed differently, for her power in the second trust being special is non-taxable.

Accordingly, her estate tax will be computed on the following basis:

$125,000 — $60,000 = $65,000

and the tax will amount to $10,700

The combined tax in both estates will be ..... $21,400.

A more desirable estate arrangement is thus obtained and with a very substantial tax saving.

Consideration of a number of other matters has been omitted, including "reverse powers" and income tax problems relating to the principal subject. The aim has not been to analyze everything and in detail; rather, to present the main provisions and to indicate their practical application.

Silverzweig Heads Local A. J. Congress

David F. Silverzweig, past president of The Decalogue Society of Lawyers, was elected president of the Chicago Division of the American Jewish Congress. Long active in communal affairs and in the legal profession, Silverzweig served with distinction as Vice President of the Congress and, also, as Section Chairman and member of the Board of Governors of the Community and War Fund Campaigns.

The local division of the Congress includes more than two hundred affiliated organizations, and numbers about 40,000 members.

Silverzweig edited the Decalogue Bulletin (now the Journal) for several years. He was the recipient of the annual Decalogue organization award for 1942.

Friends and colleagues of Silverzweig predict that under his administration the American Jewish Congress will prove an even stronger factor for dissemination of principles of American democracy, defense of civil rights and the welfare of Jewry.

SAMUEL ALLEN IN PRIVATE PRACTICE

Samuel Allen, past president of The Decalogue Society of Lawyers and Head of the Personal Injury Division of the City of Chicago Law Department resigned from that office after twenty one years of consecutive service. He is now a member of the law firm of Schwartz, Allen and Shriman, 135 South LaSalle Street.

A recognized authority in the field of personal injury litigation, Allen handled during his long association with the City of Chicago Law Department more than ten thousand cases. As a city law officer he has served under Frances X. Busch, William H. Sexton, Barnet Hodes, Benjamin S. Adamowski, and John J. Mortimer.

Allen is past president of the Humboldt Boulevard Temple and now chairman of its Board of Directors. He is also a director of the Hebrew Immigration Aid Society.

Servitude

He must know the proceedings
Relating to pleadings,
The ways of preparing a brief;
Must argue with unction
For writs of injunction
As well as for legal relief.

He must form corporations
And have consultations,
Assuming a dignified mien;
Should reach each decision
And legal provision
Wherever the same may be seen.

Attachments and trials,
Specific denials,
Demurrers, replies, and complaints,
Disbursements, expenses,
And partial defenses,
Ejectments, replevins, distraints;

Estoppels, restrictions,
Constructive evictions,
Agreements implied and express,
Accountings, partitions,
Estates, and commissions,
Incumbrances, fraud, and duress.

Above are essentials,
The best of credentials
Required—and handsome physique;
Make prompt application—
Will pay compensation
Of seventeen dollars a week.

—*Anonymous*

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AUTHOR AND PLAYWRIGHT

Member Ben Aronin, who wrote the "Frontiers of Freedom," the pageant of the Chicago 1950 Fair, is the author of the book and lyrics of the "Song of Mid-America," the technicolor movie, celebrating the centennial of the Illinois Central Railroad.

Sources and Tendencies of Israel Law

A condensation, by Benjamin Weintroub, of an article by Dr. Uri Yadin, in the March, 1951, issue of the University of Pennsylvania Law Review.

There exists today no central organic law in Israel's legal system. Israel has as yet no constitution. The Courts of this new nearly three year old commonwealth, apply laws which are drawn from various sources. The so called Jewish law prevailing in Israel pertains only to matters of personal status such as marriage, divorce, alimony, wills and successions; and that only so far as Palestinian Jews are concerned. The source of other laws in force today, in Israel, stem from Ottoman laws prevailing in Israel until 1914 when the country was occupied by the British and for nearly thirty-four years thereafter, decrees and regulations which the English government imposed upon the mandatory territory of Palestine. During that period a great number of ordinances were introduced based upon English law, many of them almost identical with the corresponding acts of Parliament. The mandatory constitution brought to Palestine "the substance of the common law, and the doctrines of equity in force in England which were to apply whenever the statutory (Ottoman or Palestinian) law were lacking or incomplete." The only provisions which were immediately or specifically repealed, when Israel achieved independence, were those directed against Jewish immigration and against the transfer of land to the Jews.

The lack of a new organic law, that makes for sharp definitions of rights and duties in the new state is, generally speaking, deliberate in nature:

> In a country whose population is increasing so rapidly (790,000 inhabitants on November 30th, 1948—1,300,000 on September 30th, 1950) and whose very essence lies in its future rather than in its present composition, it would be premature and might easily become detrimental if legislative decisions on vital matters were taken too early.

The builders of Israel are currently dedicated to the strengthening of the State. To the ingathering of the dispersed; to a process known as *Kibbutz galuiot*. Specifically this philosophy means:

> (1) concentration within the territory of Israel of the greatest possible number of Jews from wherever they may be ready and able to come; (2) the integration of the various immigrants, together with the Arab inhabitants of the country, into a homogenous, progressive nation; (3) the revival of the land and its development into a modern democratic, prosperous country.

A most striking law passed by Israel's Parliament, The Knesset, which best illustrates the dynamics of the thinking of that Israel law makers provides that—any Jew from anywhere has the right to enter the country as an *Oleh* (oleh is the Hebrew word for a Jew immigrating to Palestine, its meaning being similar to that of a re-partriate)." There awaits him, immediately, all rights already accrued to a national. But two obligations are attached to the invitation of citizenship in Israel; compulsory education for children, ages 5 to 14 and, military service for men and women alike.

Israel which has for thousands of years before Dispersion and for many centuries afterward provided a civilized world with the law of Mount Sinai, which gave the world the fundamental code of the Mishna and, later, the voluminious compilation known as the Talmud, guides its present legal philosophy on the basis of *Kibbutz galuiot, the* ingathering of the dispersed.

A people who count among its giants of thought the great Maimonides and his systematic exposition of the Law, the Mishne Torah, (1180 A.D.), Joseph Karo's, Shulchan Aruch (1560 A.D.), that leading source of Jewish law to the present day—the Israelites of today are primarily committed to the proposition of peopling the country with a great Jewish community—confident that a legal system fit for a civilized people—will be fashioned and evolved at a later day.

LEGAL AID COMMITTEE

Miss Matilda Fenberg, member of our Board of Managers and Chairman of our Legal Aid Committee requests that members of The Decalogue Society of Lawyers upon interviewing prospective clients who should be referred to our Legal Aid Committee, address or telephone her at 209 S. La Salle Street, ANdover 3-3313.

Annes and Fischer Earn Society Honors

Each year one or more members of our Society are honored for outstanding contributions to its welfare. This year The Decalogue Society of Lawyers chose again members whose devotion to the principles and interests of our bar association merited special recognition. Messrs. Annes and Fischer, whose brief biographical sketches follow, will receive their inter-organization certificates of commendation at the Annual Dinner, March 1st, at the Palmer House.

Paul G. Annes came to the United States from Russia in 1912 when eleven years of age. He made his way through high school and college by working after school hours. He was graduated from the University of Chicago (Ph.B. '21) and in 1923 the Law School of the same university conferred upon him the J.D. degree, cum laude.

Shortly after the completion of his college studies Annes began to take an active part in civic and communal affairs in this city. He joined the City Club in 1926, serving on many of its committees; later was elected to its Board of Governors; and in 1946 became one of the youngest presidents of this fifty-year old institution, serving two terms.

Annes' range of public service is wide and varied. During 1945 and 1946 he was Chairman of the Executive Committee-First Division-of the Council of Social Agencies of Chicago. He was chairman of a committee which introduced social services to inmates of the Cook County Jail. In 1951 he was chairman of the Chicago Civic Assembly, sponsored by the City Club of Chicago. He is currently President and Chairman of the Board of the Chicago Council against Racial and Religious Discrimination, an organization composed of over one hundred civic agencies, the major labor organizations, churches and communal bodies in this city and its environs. Annes has long been a Zionist and an active member of the Chicago Histadrut. In 1948 he was a delegate to the World Zionist Congress, meeting at Montreux, Switzerland.

Active in the practice of law, specializing in Federal Taxation, he writes in his professional field as well as on subjects of general cultural interest. He is a frequent lecturer on Federal Taxation before our Society as well as before other bar associations. He has traveled widely abroad and speaks a number of languages.

Annes has been a member of The Decalogue Society of Lawyers for a number of years. A member of our Board of Managers, he was elected last year as our second vice-president.

Mr. and Mrs. Annes are the parents of two sons, George and Robert.

Richard Fischer was born on the West Side of Chicago in 1875. Both his maternal and paternal grandfathers fought in the Civil War on the Union side.

He was graduated from the West Division High School in 1893, a class known as "The World's Fair Class." Both his college and law school studies were at Northwestern University, from which he was graduated in 1897. He was admitted to the bar in the same year. Fischer paid his way through college by working in his father's orchestra and band.

Fischer served in the Spanish-American War under Col. Marcus Kavanagh, who later became Judge of the Supreme Court of Cook County. He was a Sergeant Major in the Infantry guard. He also served under Col. Milton Foreman as regimental band leader. For more than twenty-five years he was a conductor of orchestras at the Garrick, Woods, Appollo, Great Northern and other theatres. After his return to legal practice, Fischer served in the Trust Department of the Foreman Bank until that institution was closed.

Throughout the years of his residence in this city, Fischer was an officer of the Chicago Federation of Musicians and, a member of the Board of the Chicago Musicians' Club of the latter of which he is the legal adviser.

Fischer has been a member of our Society for about ten years. In 1945 he was elected Executive Secretary, a post which he has held with distinction and to which he has been annually reelected. He is also an active member of several of our committees.

In 1926 Fischer moved to Winnetka, Illinois, where he was later elected Police Magistrate of the Village, an office to which he was reelected for several terms until he again resumed his residence in Chicago.

In 1948 the Illinois State Bar Association noted the fiftieth anniversary of his admission to the bar of this State by conferring upon him the title of Senior Counsellor.

Mr. and Mrs. Fischer are the parents of two sons; the older, Richard S., is superintendent of Music in the Nebraska University, while the younger, Forrest, is with the editorial staff of the Hammond Times, Hammond, Indiana.

Notes on Proposed Judicial Article, State of Illinois

A condensation, by member Louis J. Nurenberg, of an address by Judge Harry M. Fisher, delivered before our Society, October 26, 1951.

In view of the fact that I am a member of the Joint Committee of the State and Bar Associations, which is now engaged in drafting the Judicial Article, which it is hoped, will be proposed at the next session of the Assembly, I want to make it plain that what I am about to say with reference to what ought to be done in the rebuilding of our judicial structure is not being said as a member of the Committee at all.

We are operating under the Constitution of 1848 so far as the Courts are concerned. The Constitution of 1870 affected only the structure of courts in Cook County. For the rest of the State, we have on the trial court level, the Circuit Court, the County, in some places the Probate Court, Justices of the Peace. We have since then added some City Courts.

In Cook County we have nine courts: Circuit, Superior, Criminal, County, Probate, the Municipal Court of Chicago, Evanston, and the City Courts of Calumet and Chicago Heights. These courts are independent of each other.

Prior to the adoption of the Constitution of 1870, there was a Circuit Court of Cook County and a County Court. The legislature created the Superior Court of Chicago with coordinate jurisdiction with the Circuit Court, and it created a Recorder's Court which had only criminal jurisdiction.

The clerks of the Superior and Recorder's Courts appeared before the 1870 Convention and threatened that if their offices were abolished they would use their power to defeat the Constitution and so the Circuit Court was retained, the Superior Court of Chicago was made the Superior Court of Cook County, and the Recorder's Court was made the Criminal Court of Cook County with its separate clerk.

No one who knows our judicial setup today would venture a suggestion that we have a judicial system in the State of Illinois. We have courts, we have judges, but the term "system" contemplates some form of coordination. The most that we have in control is a review of the final product of the courts, at most three per cent of the judgments; for at least ninety-seven per cent of all litigation makes the trial court the court of last resort.

Not only have we no coordination amongst the courts as courts, we have little coordination as between judges; save for those cases which are reviewed by the Appellate or Supreme Court, each judge is theoretically at least, a law unto himself, even to the extent of hearing cases not assigned to him.

Moreover, the Court is too much dependent upon the Legislature for its personnel. We have, for instance, the same number of judges in the Circuit Court that we had in 1915, and only eight more judges provided for the Superior Court of Cook County, despite the fact that the work of these courts has multiplied at least doubly.

In the early days of this State, the creation of administrative agencies with power to determine rights was held to be unconstitutional. Later on the Court was compelled to change its attitude and clearly indicated that the change was the result of inescapable necessity, and said that so long as review by the courts is assured, that then they would hold that it complies with the "due process" provision.

These special agencies, politically appointed, are growing in number. One cannot say with any degree of satisfaction that we get the best judicial service out of these agencies.

In an article which I wrote in 1942, I did suggest that so far as Cook County is concerned, it was ready for an integrated Court. Let me indicate some of the thinking of those who are engaged in drafting the Judicial Article of the Constitution.

Primarily, we have these objects in view:

One, an integrated system or systems, one for Cook County perhaps, and one for the rest of the State, which would include the abolition of justices of the peace and every other court, save one.

In Cook County and in the other judicial circuits, the complete administrative authority should be vested in the Supreme Court of the

State. Its power would be not only to review final judgments, but it would be given the full rule-making power. We are going to provide for a system of a single appeal except in a few types of cases.

In each Circuit we contemplate a coordinated court with a chief justice of limited power, but all subject to the ultimate review by the Supreme Court or by its original action in respect of the administrative function.

We hope to provide for an administrative officer appointed by the Supreme Courts, serving the system, the same way as Mr. Chandler is serving the Federal system.

We hope to provide for compulsory judicial conferences of all the judges. There should be a Circuit Court with a limited number of judges and this body of judges should be assisted by associate judges. These associate judges would be blanketed in just as the Circuit and Superior judges are blanketed in.

For the less important work there should be deputy judges whose terms are not fixed and are left entirely to the legislature, whose numbers can be increased or decreased, whose jurisdiction should be subject to the rules of the Supreme Court by the judges of the Court.

The present judges would be blanketed in and would never run for reelection again save on their record. The only question that would go to the voters would be, "Should Judge X be retained in office? If the majority say yes, he is reelected for another full term. When a vacancy occurs, the Governor should make the appointment upon the recommendation of a nominating commission to be selected in ways that would give the Bar and the public representation to serve for only one term.

They would be required to nominate a certain number, and from only those the Governor could select. This would apply to Circuit, Associate, Appellate, and Supreme Court judges.

It is objected that the judges would, by that system be too far removed from the people; that initial selection should be by election. Whichever view prevails, the Committee is determined to present a Judicial Article which will create for the State of Illinois an integrated, consolidated body of judges constituting a coordinated judicial system, and with sufficient power to run their own business so as not to suffer by the unwarranted interference of any other division of the State.

Ample provision is contemplated for retirement compensation, so that the office will be attractive to lawyers who today do not aspire to the honor because of dangers involved in abandoning remunerative law practices, and running the risk of being thrown out of office at the end of six or twelve years.

You will understand from what I have said what the thinking of the Committee is and what is its objective. Whether that is ever to become a reality you can guess as well as I.

SORROW

The Decalogue Socety of Lawyers announces with deep regret the death of the following members:

William S. Newburger
Sidney Traister

MALKIN IN JUDICIAL POST

Harry H. Malkin, Treasurer of The Decalogue Society of Lawyers was appointed Referee of the Municipal Court of Chicago and assigned to Branch 53—Room 504—in the Criminal Court Building.

Mr. Malkin will assist Judge William Daly in handling traffic law violations. The appointment is for a two year term.

BENJAMIN NELSON

Member Benjamin Nelson, Master in Chancery of the Superior Court has been endorsed by the Democratic organization for the post of representative from the 19th Senatorial District.

MORRIS BROMBERG

Member Morris Bromberg, Chairman Chanukah Festival Committee reports that more than 17,000 people, the largest attendance in the history of any Jewish organization in the city, were present at the last Zionist gathering, December 21, at the Chicago Stadium.

IRVING LANDESMAN

Member Irving Landesman, has been endorsed by the Democratic organization for the post of Trustee of the Sanitary District.

Elmer Gertz on Housing

Elmer Gertz, chairman of our Civic Affairs Committee and chairman of the legal committee of the Housing Conference of Chicago, spoke under the auspices of The Decalogue Society Committee on Legal Education, Harry A. Iseberg chairman, on November 16th at the Covenant Club on *Current Aspects of Housing.* For several years, Gertz has presented an annual survey of the housing situation to the Society. This year his talk was more in the nature of a legal analysis than heretofore. He discussed the *Gorbe* case (409 Ill. 211) which invalidated the "quicktaking" amendment to the Illinois Eminent Domain Act. He stated that this action of the Supreme Court is legally unsound, out of harmony with the decisions elsewhere, and likely to make expeditious action in defense as well as housing situations unlikely. Gertz predicted that the court would ultimately reverse itself in the matter. He also discussed the pending case involving the new concept of "blighted vacant land" and showed that the future development of the city depends upon the utilization of the dead subdivisions in the outlying areas. A test case is probable, he said, in connection with the Chicago Land Clearance determination to use blighted areas close to downtown Chicago for industrial, rather than residential, purposes. Gertz agreed with Richard F. Watt that the inevitable test is one of the roadblocks to housing progress. "Of course, public agencies should act in a completely legal fashion," asserted the speaker "but when the right to act is clear, why waste months of time and large sums of money to underscore the obvious?"

Turning to the field of discrimination in housing, Gertz mentioned the various cases involving efforts to circumvent the U. S. Supreme Court decisions outlawing judicial enforcement of restrictive covenants. He said that only in Missouri had any such effort been successful, and then only because the matter was not carried to the highest court of the land. According to Gertz, the Larson Bills in the Illinois General Assembly represented another effort to kill bi-racial housing through a subterfuge of requiring referenda. He paid tribute to Sen. Marshall Korshak of the Fifth Senatorial District for the fight against these bills, and Member Korshak who attended the meeting paid tribute to Gertz for his counsel and strategy in the housing fight. Gertz pointed out that, despite Governor Stevenson's veto of one Larson bill, similar bills are likely to be introduced at each session of the General Assembly, just as Armstrong used to introduce biennially bills to take away the tax exemptions of public housing. Of the same stripe, he said, were the efforts in Congress to curtail the public housing program to a mere 5,000 units. This, he said, was thwarted, largely due to member Congressman Sidney Yates.

Fun, Fame, Fortune in Patents

Member Albert I. Kegan spoke November 30 at the Covenant Club under the auspices of The Decalogue Society of Lawyers Forum, Bernard H. Sokol Chairman, on "Fun, Fame and Fortune in Patents." Kegan, is a lecturer on patents at Northwestern University.

The speaker in addition to a rapid review of principles upon which patents are issued illustrated his talk with slides of humorous patents. His choices were decidedly entertaining. For instance, he selected a few patents which he considered might be useful in a law practice: a hat-tipper; a needlelike device to let a client know when it was time to leave; a rocking-chair with concealed bellows and an air-valve, designed to cool off a fevered brow, and patents of similar import.

Among patents issued to famous persons, Kegan mentioned a patent granted to Abraham Lincoln, which proved unprofitable to our martyred President. A patent, issued to Mark Twain, however made for considerable financial gain to the creator of *Tom Sawyer* and *Huckleberry Fin.*

PHILIP H. MITCHEL

Member Philip H. Mitchel, Master in Chancery has been endorsed by the Republican organization for post of Cook County Recorder.

EDWARD P. SALTIEL

Member Edward P. Saltiel, state senator, 31st senatorial district and candidate for the post of Attorney General of the State of Illinois, Republican, has opened campaign headquarters at 189 W. Madison St.

BOOK REVIEWS

Charles Evans Hughes and The Supreme Court, by Samuel Hendel, King's Crown Press. Columbia University, New York. 337 pp. $4.50.

Reviewed by LOUIS J. NURENBERG

The subject of this book is the work of the United States Supreme Court during the two periods of service of Justice Hughes from 1910 to 1916 as Associate Justice and, from 1930 to 1941 as Chief Justice.

In Justice Hughes' first period of service there is an outstanding case that shows his attitude towards the underdog. In that case (Bailey vs. Alabama, 219 U. S. 219, 1911) a Negro, Bailey, contracted to work for a year, received a fifteen dollar advance, and left at the end of a month. There was then a statute which made such absence punishable as a crime; Bailey was fined thirty dollars and costs or in the alternative, imprisonment at hard labor for 136 days. Justice Hughes, speaking for a majority of the Court, said: "We cannot escape the conclusion that although the statute, by its terms is to punish fraud, still its natural and inevitable effect is to expose to conviction for crime those who fail or refuse to perform contracts for personal service in liquidation of a debt, and judging its purpose by its effect that it seeks in this way to provide the means of compulsion through which performance of such service may be secured." His stand in this case is interesting in view of the fact that Justice Holmes held that this statute did not violate the thirteenth amendment.

It was the period after January, 1935 that established Justice Hughes's claim to fame. Between January, 1935 and June, 1936, twelve important New Deal measures were passed upon, of which ten were invalidated and two given restricted approval. In these cases the Justices had supported the administration as follows: Justice Cardozo, 9, Justices Brandeis and Stone, 8 each, Chief Justice Hughes, 5, Justice Roberts, 3, Justices Van Devanter, Sutherland and Butler, 1 each, and Justice McReynolds, none. The election of November, 1936 gave President Roosevelt overwhelming approval and the President on February 5, 1937 sent to Congress a proposal to empower the president to appoint an additional justice whenever the incumbent reached seventy years of age and did not retire. There were then six justices above seventy including Justice Hughes.

The Chief Justice's response was immediate and pulverizing. On March 22, 1937 a letter from him read by Senator Wheeler before the Senate Judiciary Committee opposed the bill on the grounds that the Supreme Court was not behind in its court call and moreover, to have more justices would be to have an unwieldy court. On March 29, 1937, three cases concerning matters previously held unconstitutional were held valid. On April 12, 1937 by five to four votes, the Court sustained the National Labor Relations Act in a series of decisions affecting the manufacturers of goods—steel, trailers, and men's clothing. Finally, on May 24, 1937, the Social Security Act and a state unemployment insurance tax were upheld. In June, 1937 Justice Van Devanter resigned.

In June, also came the adverse report of the Judiciary committee. The opinion of Robert Jackson was: "In politics the black-robed reactionary Justices had won over the master liberal politician of our day. In law the President defeated the recalcitrant Justices in their own Court." From March, 1937 until the retirement of the Chief Justice in June, 1941, not one Act of Congress was invalidated. It should be emphasized that in all this reversal Chief Justice Hughes and Justice Roberts played the crucial parts, for without their votes, the views of Justices Brandeis, Stone and Cardozo would have remained a permanent minority.

On Chief Justice Hughes' retirement the comment of the publication, "The Nation" which had opposed his confirmation in 1930 is significant:

"The Chief Justice earned esteem by realizing that it was not sufficient merely to block the Court plan. The principal reforms of the New Deal were approved before vacancies permitted the President to name a majority. Hughes had the acumen to recognize the inevitable, and that is the larger part of statesmanship."

Civil Rights in America. May 1951 issue of The Annals of the American Academy of Political and Social Sciences. 238 pp. $2.00.

Reviewed by ELMER GERTZ

This is a book length review of the precarious state of civil rights in the United States, written by a number of the foremost American authorities. It is edited by Dr. Robert K. Carr, of Dartmouth, who did such remarkable work with the President's Committee on Civil Rights, of, shall we say, sainted memory.

The review begins with a statement of the problem by Robert E. Cushman, Will Maslow and Joseph B. Robison. It is significant that two of these men are associated with the American Jewish Congress and have helped formulate its dynamic approach to law and social action. The Congress viewpoint is expressed by other contributors, including particularly

Mr. Leo Pfeffer, who discusses the U. S. Supreme Court as protector of the civil rights of freedom of religion, which is latterly a matter of keeping high and wide the wall separating Church and State. As the editor says, ". . . . It is not an easy business to preserve the freedom of the individual in a society that demands the existence of very large measures of power, organization, and order as the price of its survival."

One long section deals with the protection of civil rights *through* government, followed, significantly, by a shorter section dealing with protection of such rights *against* government. It is, indeed, an uncertain tug-of-war in which organized society has often "secured these rights" for the individual and as often taken them away. Some believe that government is in itself the enemy; that the bigger and more powerful the government, the bigger and more potent the menace. Milton R. Konvitz, Osmond K. Fraenkel of the American Civil Liberties Union, and Thurgood Marshall of the National Association for the Advancement of the Colored People tend to show that all arms of our government may become the protector, rather than the destroyer, if bright, free, probing and courageous men are on the Supreme Court, in executive positions and the legislature. The legislature can enact laws to define and end discrimination; but it takes the will and resourcefulness to enforce them by the executive and judiciary branches of government to make such laws realities of daily living.

The implication of much that appears in this volume is that our civil liberties are dying as a result of an attrition process of whittling them down through pious and platitudinous qualifications, explanations and limitations. The will to liberty is dead or dormant, and must be revived.

Our own Arthur J. Goldberg and Mr. Philip B. Willauer contribute a symposium on civil rights in labor-management relations, the adaptation of traditional civil rights to a mid-twentieth century economy. Goldberg believes that the Taft-Hartley Act has robbed labor of the basic right of collective bargaining given to it by the historic Wagner Act.

The A. C. L. U. elder statesman, Roger N. Baldwin, examines the international outlook for civil rights in an article which concludes on a hopeful note, despite the power conflicts of our day.

Perhaps the most depressing part of the record deals with the protection of civil rights against government. Harold D. Lasswell asks, "Does the Garrison State Threaten Civil Rights?" and answers, "Yes." Eleanor Bontecou asks, "Does the Loyalty Program Threaten Civil Rights?", and answers "Yes." William B. Prendergast asks, "Do State Anti-subversive Efforts Threaten Civil Rights?", and answers, "Yes." Edward C. Kirkland, too, gives an affirmative answer to the question, "Do Anti-subversive Efforts Threaten Academic Freedom?" None of these persons believes that we may with impunity ignore the threats to our democracy from within and without. They believe in the safeguarding of our institutions from traitors, saboteurs, spies and seditionists through sound crime-detection and intelligent security laws and practices. What they deplore, as we should, is the technique of hitting rats and gnats with sledge hammers, in careless broad sweeps that do more damage to innocent on-lookers than to the guilty parties.

Reprint Decalogue Articles

The Decalogue Journal has granted permission to reprint two articles which have appeared in its preceeding issues. These are: "Dividends or Interest? by Member Max Reinstein (The Decalogue Journal April-May 1951) reprinted in *The Monthly Digest of Tax Articles,* November 1951 issue, and, "Protecting Commercial Applications of Art" by Members Albert I. Kegan and Samuel W. Kipnis (The Decalogue Journal, September-October 1951) reprinted in *The Law Review Digest,* November 1951.

Lawyer's LIBRARY

The *Editor* earnestly suggests close examination of the titles listed below.

New Books

American Bar Association & Northwestern University. *Judge and prosecutor in traffic court.* Evanston, Illinois, Traffic Institute, 1951. 346 p. $5.50.

Biddle, Francis B. *The fear of freedom; Introduction by Harold J. Ickes.* New York, Doubleday, 1951. 280 p. $3.50.

Black, Henry C. *Law Dictionary.* 4th ed. West, 1951. 1882 p. $9.00.

Braucher, Robert. *Cases on commercial law.* Brooklyn, N. Y., Foundation Press, 1951. 709 p. $8.00.

Callahan, Parnell T. *Law of real estate; the law in all 48 states.* 2d ed. New York, Oceana, 1951. 96 p. $2.00. (paper $1.00).

Commager, H. S. & others. *Civil liberties under attack; edited by Clair Wilcox.* Philadelphia, University of Pennsylvania Press, 1951. 155 p. $3.50.

Corwin, Edwin S. *A constitution of powers in a secular state.* Charlottesville, Michie Co., 1951. 126 p. $3.00.

Cox, Hudson B. *Renegotiation of government contracts.* Washington, D. C., Bureau of National Affairs, 1951. $9.50. (Loose-leaf).

Dressler, David. *Parole chief.* New York, Viking Press, 1951. 310 p. $3.50.

Gibbs, C. R. *State regulation of lobbying.* Chicago Council of State Governments, 1951. 95 p. $1.50.

Gomberg, M. R. & Levinson, F. J., eds. *Diagnosis and process in family counseling.* N. Y., Family Service Association of America, 1951. 243 p. $3.75.

Hamburger, Max. *Morals and law; the growth of Aristotle's legal theory.* Yale University Press, 1951. 213 p. $3.75.

Holloway, W. V. *State and local government in the United States.* N. Y., McGraw-Hill, 1951. 460 p. $3.75.

Lasswell, H. D. *The political writings of Harold D. Lasswell.* Glencoe, Ill., Free Press, 1951. 525 p. $5.00.

Lavine, Abraham L. & Edelson, E. M. *College business law.* Revised ed. Baltimore, H. M. Rowe, 1951. 628 p. $2.20.

Mangone, G. J. *The idea and practice of world government.* New York, Columbia University Press, 1951. 289 p. $3.75.

Ploscowe, Morris. *Sex and the law.* New York, Prentice-Hall, 1951. 336 p. $3.95.

Pound, Roscoe. *Justice according to law.* New Haven, Conn., Yale University Press, 1951. 98 p. $2.50.

Randle, C. W. *Collective bargaining; principles and practices.* Boston, Houghton, 1951. 752 p. $6.00.

Redden, Kenneth. *Career planning in the law.* Indianapolis, Bobbs-Merrill, 1951. 194 p. $3.00.

Schlatter, R. B. *Private property; the history of an idea.* New Brunswick, Rutgers University Press, 1951. 283 p. $2.50.

Stahl, Kathleen. *British and Soviet colonial systems.* New York, Praeger, 1951. 118 p. $2.50. ("Comparison of constitutional and legal structures").

Tannenbaum, Frank. *Crime and the community.* Columbia University Press, 1951. 487 p. $4.50.

U. S. Defense Department. *Manuel for courts-martial, United States,* 1951. Washington, D. C., Government Post Office, 1951. 665 p. $2.75.

Wood, Virginia. *Due process of law,* 1932-1949. Baton Rouge, La., Louisiana State University Press, 1951. 448 p. $6.00.

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FEDERAL MASTER IN CHANCERY

Member Jacob M. Shapiro was appointed by the U. S. Court of Appeals, Federal Master in Chancery in railroad reorganization cases.

ILLINOIS LIQUOR COMMISSION

Member of our Society Sol A. Hoffman was appointed by Governor Adlai Stevenson, a member of The Illinois Liquor Commission.

U. S. Supreme Court and Civil Rights

(Continued from page 6)

notice or hearing on the Attorney General's subversive list. *Joint Anti-Fascist Committee* v. *McGrath,* 341 U. S. 716. However, on the same day, a divided court upheld the "loyalty" discharge of Dorothy Bailey, of which Justice Edgerton of the District Court of Appeals said:

"The court thinks Miss Bailey's interest and the public interest conflict. I think they coincide. On this record we have no sufficient reason to doubt either Miss Bailey's patriotism or the value of her services to the government, or to suppose that an unpatriotic person could do substantial harm in her sort of job. Even if her services were on the whole undesirable, to oust her as disloyal on rumor and without trial is to pay too much for protection against such harm as she could do in such a job. The cost is too great in morale and efficiency of government workers, in appeal of government employment to independent and inquiring minds, and in public confidence in democracy. But even if such dismissals strengthened the government instead of weakening it, they would still cost too much in constitutional rights. We cannot preserve our liberties by sacrificing them."

The implications of the decisions for Chicago and Illinois are clear. The court has approved repressive legal devices which many observers considered long since discarded. Let us hope that an enlightened citizenry will refuse to sanction their use and preserve our liberties by strengthening them, not by sacrificing them.

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Professional Standards

A condensation by Member Samuel T. Golden of an article by Elliott E. Cheatham entitled "The Inculcation of Professional Standards and the Functions of the Lawyer" in the June, 1951 issue of THE TENNESSEE LAW REVIEW.

Professor Cheatham's article is a report on the results of a questionnaire answered by eighty-five law school deans for the "Survey of the Legal Profession."

Is the bar interested in the training of young lawyers to act rightly in their professional careers? This question seems to underlie the questionnaire. The deans were asked what bar examiners, the bar itself, and the law schools are doing—and what they thought these agencies could and should do—to promote professional standards among students and beginning lawyers.

Most of the deans found that bar examiners ask questions about professional ethics, and that this practice was proper and should be continued. Few deans reported that they had any regular "preceptor" system of assigning students for individual instruction by practicing lawyers; few of them had anything good to say for the plan. The same reception was accorded the "clerkship" plan of requiring graduates to serve clerkships before they might be admitted to the bar.

The deans generally agreed that the law schools should imbue in their students a strong sense of professional responsibility, and most of the schools offer some kind of legal ethics course. These courses differ widely in method, content and objective. Interestingly enough, in most cases the deans admitted their own dissatisfaction with the courses. Many deans emphasized that it was hard to teach professional standards in isolated courses; these questions should be brought into other courses in the curriculum. Some deans denied that professional standards could be "taught" at all, stating that the bar itself should take this responsibility. The suggestion was also made that the bar associations ought first more actively to clean their own houses: this would most inspire the yet-unspoiled law graduate to pursue the right paths.

Professor Cheatham necessarily deals with this important subject in a dry, statistical way. But the article raises good questions. Practicing lawyers should be concerned about how well students and young lawyers are informed about the legal profession, and what efforts are made to imbue them with the right sense of responsibility to the public, profession, and client. In studying this problem, lawyers will have the opportunity to reexamine, from a fresh point of view, the canons and standards of the profession, to reinterpret them, and perhaps to improve the professional standing of the entire bar. Strong activity by the bar groups to promote and police better standards of ethics and community responsibility among the bar will undoubtedly help young lawyers to choose the right modes of conduct. Similarly, the bar's recognition of its responsibility toward its new members may lead it to its own improvement.